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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/625,381	07/25/2000	Whay S. Lee	5181-55200	6589
7590	11/13/2003			EXAMINER VANDERPUYE, KENNETH N
Robert C Kowert Conley Rose & Tayon PC P O Box 398 Austin, TX 78767-0398			ART UNIT 2661	PAPER NUMBER 4
DATE MAILED: 11/13/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/625,381	LEE, WHAY S.
	Examiner Kenneth N Vanderpuye	Art Unit 2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-33 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
 5) Claim(s) ____ is/are allowed.
 6) Claim(s) 1,4,12-16,19 and 27-31 is/are rejected.
 7) Claim(s) 2,3,5-11,17,18,20-26,32 and 33 is/are objected to.
 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 11) The proposed drawing correction filed on ____ is: a) approved b) disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) The translation of the foreign language provisional application has been received.
 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 1 is objected to because of the following informalities: In claim 1 line 13, "an adverse" should be changed to –said adverse--. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4, 12-16, 19, 27-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yuan et al.(6,567,378) in view of Lazaraq(6,330,435).

With regards to claims 1, 16, 31, Yuan teaches an apparatus comprising a first device(Fig. 1@110); a second device(Fig. 1@125); a switching device coupled to said first and second device(Fig. 1@130); wherein said switching device is configured to receive a first packet from said first device(switch 130 receives cells from a sources station), wherein said switching device is configured to detect an adverse transmission

condition(congestion resulting in insufficient buffer space), wherein in response to an adverse transmission condition, said switch is configured to drop at least a portion of said first packet.(Switch drops cells dues to insufficient buffer space). What Yuan fails to teach is wherein said switching device generates a second packet, and convey said second packet to said second device, wherein said second packet includes information about said first packet. In Lazaraq, a data packet discard notification(DPDN) message is sent by a transmitter to a receiver when that transmitter discards packets. The DPDN message contains sequence numbers of discarded cells. Hence it would have been obvious to one of ordinary skill in the art to incorporate this feature in Lazaraq into the switch in Yuan for the purpose of notifying the destination of discarded cells. The motivation being to let the destination know that it need not expect to receive the cells.

Claims 4, 19 are rejected because Yuan fails to teach conveying a third packet to said first device in response to receiving said second packet. This is taught by Lazaraq.(claim 12, retransmission request). It would have been obvious to one of ordinary skill in the art to combine both references for the same reasons above.

Claims 12, 27 are rejected because although Yuan uses generic terms i.e. source and destination stations, the particular types of source or destination would depend on the environment eg client/server etc. Hence the choice of the type of source or destination is obvious as a matter of design choice.

Claims 13, 28 are rejected because Yuan teaches the use of a threshold to determine if buffer capacity is exceeded.(Fig. 5A@530)

Claims 14-15, 29-30 are rejected because official notice is taken that congestion is only one of the many reasons why discard packet notification messages are sent. Other adverse conditions may include corruption of data based on a CRC or a path failure, which may lead to congestion. It would have been obvious for one of ordinary skill in the art to combine this well known art with Yuan and Lazaraq for the purpose of discarding packets based on other types of adverse conditions unique to networks. The motivation being to avoid congestion.

Allowable Subject Matter

Claims 2-3, 5-11, 17-18,20-26, 32-33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten

in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth N Vanderpuye whose telephone number is 703-308-7828. The examiner can normally be reached on M-F(7:30-5:00) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug Olms can be reached on 703-305-4703. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.



KENNETH VANDERPUYE
PRIMARY EXAMINER

KNV
November 8, 2003